

REVIEWED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 03 2000

In re application of: Sabry et al.

Application No.: 09/311,890

Filed: May 14, 1999

Title: DATABASE SYSTEM FOR PREDICTIVE
CELLULAR BIOINFORMATICS

NOV 02 2000

TECH CENTER 1600/2900

Attorney Docket No.: CYTOP008

RECEIVED

Examiner: Ogihara, N.

Group: 1631

OCT 05 2000

TECH CENTER 1600/2900

BEST AVAILABLE COPY

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the
United States Postal Service as First Class Mail to: Assistant
Commissioner for Patents, Washington, DC 20231 on September 28,
2000.

Signed:

Leslie Robertson

Leslie Robertson

TRANSMITTAL

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Transmitted herewith for the above-identified application, please find:

1. Restriction Requirement.

Applicant(s) believe that no (additional) Extension of Time is required; however, if it is determined that such an extension is required, Applicant(s) hereby petition that such an extension be granted and authorize the Commissioner to charge the required fees for an Extension of Time under 37 CFR 1.136 to Deposit Account No. 50-0388.

Please additional fees required to facilitate filing the enclosed response, to Deposit Account No. 50-0388 (Order No. CYTOP008). A copy of this sheet is enclosed.

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP

Jeffrey K. Weaver
Jeffrey K. Weaver
Reg. No. 37,260

P.O. Box 778
Berkeley, CA 94704-0778
(510) 843-6200



NOV 02 2000

PATENT

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sabry et al.

Attorney Docket No.: CYTOP008

Application No.: 09/311,890

Examiner: Ogihara, N.

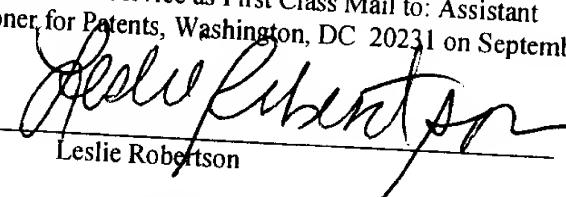
Filed: May 14, 1999

Group: 1631

Title: DATABASE SYSTEM FOR PREDICTIVE
CELLULAR BIOINFO

BEST AVAILABLE COPY

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the
United States Postal Service as First Class Mail to: Assistant
Commissioner for Patents, Washington, DC 20231 on September 28,
2000.

Signed: 

Leslie Robertson

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

In response to the Restriction Requirement mailed September 1, 2000, having a period for response extending to October 1, 2000, Applicants provisionally elect claims 16-18 (group III) with traverse.

In order for a Restriction Requirement to be proper, the claim groups identified for restriction must be independent or distinct from one another. In addition, examining all claim groups in a single application and must present a serious burden on the Examiner. See MPEP § 803.

In the Restriction Requirement at issue, the Examiner acknowledges that each group of claims is classified in class 702, subclass 19. No other subclasses are mentioned. Therefore, it would seem that searching the separate groups of claims together would not present a serious burden..

All pending claims are directed to "systems." The Examiner argues that the various claim groups are distinct because "they are each drawn to differing methods with differing objectives, method steps, and outcomes." The claim elements represent various "system" features, not method steps. While the "objectives" of each claim group may be subtly different,

they are on balance quite similar. In at least the first three groups of claims, the recited systems each require some form of image acquisition system arranged to capture images of cells, together with a database system adapted to retrieve cell images or features or information about such images. The fourth claim group similarly requires a database which stores features obtain from an image processing device.

Each of the independent claims, defining a separate claim group, could be written with the same preamble. Specifically, each claim pertains to a "system" for acquiring and/or analyzing cellular information from images. If the examiner believes that an Amendment making the preambles consistent across all claim groups would overcome the Restriction Requirement, Applicants would make such Amendment.

On August 25, 2000, Applicants filed a Preliminary Amendment introducing new claims 29-44. These claims pertain to systems and methods for capturing and analyzing images of cells. As with all pending claims subject to the Restriction Requirement, these new claims also specify image capturing devices and components for analyzing and characterizing images of cells. For this reason, the new claims should be classified with the claims of groups I-IV. It is respectfully submitted that the new claims should not be subject to a separate Restriction Requirement.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below. If any fees are due in connection with the filing this Response to Restriction Requirement, the Commissioner is hereby authorized to charge such fees to Deposit Account 05-0388 (Order No. CYTOP008).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP



Jeffrey K. Weaver
Reg. No. 31,314

P.O. Box 778
Berkeley, CA 94704-0778
(510) 843-6200